

FREEPAGE CORPORATION
PO Box 2576
Montauk, NY 11954

516 668 6775

October 6, 1997

Secretary
Federal Communications Commission
1919 M Street NW
Washington DC 20554

DOCKET FILE COPY ORIGINAL

RECEIVED
OCT - 9 1997
FCC MAIL ROOM

Gentlemen:

Enclosed please find an original, and nine copies, of a **Petition for Rulemaking** proposing an incidental use of 150 MHz and 450 MHz CMRS radiotelephone stations licensed under Part 22 of the Commission's Regulations. If adopted, these rule changes would enable CMRS licensees in those bands to provide a Limited Program Distribution Service to certain entities who are not able to obtain FM-SCA channels for various reasons. We anticipate that these channels could be used to reach "niche" audiences not otherwise served.

Please deliver copies to each of the Commissioners, as well as processing the remainder in your normal manner.

Thank you for your assistance in this matter.

Respectfully submitted,

FreePage Corporation

BY: 
its President

Encl: PRMx10

No. of Copies rec'd
LH: 005

029
WT

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

FCC MAIL ROOM

Amendment of Part 22 of the Commission's
Rules to modify Section 22.323 and Permit
the transmission of Limited Program Distribution
Service material over Common Carrier Radio-
telephone channels in the 150 and 450 MHz bands.

NOV - 9 1997

RECEIVED

PETITION

FreePage Corporation, licensee of two-way Radiotelephone stations KNLR969 and KGC599, hereby petitions the Commission to permit it, and other Common Carrier licensees similarly situated, to use their 150 and 450 MHz CMRS stations to "disseminate" certain types of aural programming to limited audiences. Such programming would include readings of written material to the visually impaired, childrens' programs, foreign language programming to small target audiences, broadcast of governmental hearings, town meetings and the like. The presence of tens of millions of scanners capable of receiving such programming would create a ready-made audience for such presentations. Such a service might be called "Limited Program Distribution Service" (LPDS). We propose the carriers could not produce the program content.

FreePage intends to file for an experimental and/or developmental license authority to test the feasibility of such an offering during the next few weeks. The test would be of transmission of "readings for the blind".

I. INTRODUCTION

1. The Commission has previously limited aural and visual broadcasting to stations licensed under Part 73 of the Commission's rules. Other "niche" narrowcasting services are offered under FM-SCA and TV-Vertical Blanking Signal regulatory umbrellas. Recent changes in the marketplace have seriously reduced the number of available transmission means available for such "narrowcasting". Indeed, a recent report indicates that the average monthly lease payment for use of a single SCA channel in the top-10 markets is now over \$ 6000 and rising, as data, paging, and other services seek spectrum for their offerings.

II. BACKGROUND

2. As their customer bases have eroded from cellular and PCS competition, licensees of Common Carrier mobiletelephone stations in the 152 and 454 MHz bands have sought ways to continue serving the public. In recent years, such stations have been converted to all-one-way Paging channels, community repeaters, and to "Dispatch" operation (22.577); the Commission's regulations have reflected this trend. There are 18 channel pairs in the 150 Mhz range, and 26 channel pairs in the 450 Mhz band, spaced either 25 or 30 kHz. Specific frequencies are enumerated in 22.561. Many large carriers have shut down their operations and turned in their licenses to the FCC for cancellation, but others continue to provide service to thousands of subscribers, particularly in areas of difficult terrain. These channels are also coincidental with BETRS service, but we foresee no conflict from enactment of our proposals. BETRS, by its very nature, is not likely to be deployed in urbanized areas, where we believe LPDS would most useful.

3. Broadcast stations have increased in value (and cost) at an almost exponential rate as restrictions on multiple ownership have been relaxed. The resulting mega-mergers have reduced costs of operation while simultaneously increasing profitability. Recent prices for stations in major markets have approached a half-Billion dollars. As a result, potential "narrowcasters" have been squeezed out of both ownership of facilities, and the use of subchannels for distribution of their programming.

III. DISCUSSION

4. The decline in traditional mobile telephone service subscribers, and the increase in the cost of entry of potential AM, FM, and SCA broadcasters, suggests that a change in the wording of Section 22.323, might create new service opportunities for Common Carriers and offer relief for a disenfranchised narrowcasting audience.

5. The VHF and UHF channels utilized by Radio Common Carriers are of an "exclusive" nature with no co-channel (shared) operation permitted. Coverage and interference contours are carefully regulated to provide reasonable coverage for paging and mobiletelephone service which, if inadequate to serve a shifting population, can be expanded or corrected through the use of synchronized "fill-in" transmitters. In some respects, the coverage of such stations can exceed the coverage of some AM and FM stations. Following the "Paging Auction" (scheduled for 1998), which would result in licensing by large geographic areas, it would be possible for a LPDS station to economically serve a larger audience, widely dispersed, at a reasonable cost.

6. A service similar to LPDS is already offered by the National Weather Service, which operates hundreds of stations in the 162 MHz band. These stations have proven that adequate coverage is easily obtainable, although they do not utilize "high power" by broadcast standards. They successfully transmit legible audio which is received by millions of weather receivers, scanners, and marine radios. Although operated by the Federal Government, these are indeed "narrowcasting" stations and would otherwise fit under the proposed LPDS umbrella, were it not for their Federal ownership.

7. To maintain the Common Carrier status of licensees in the Part 22 service, we propose that licensees or their affiliates be prohibited from producing program content of any kind. An exception would have to be made for non-profit entities, however, to permit them to be both licensees and program providers. We believe that such an exception should permit not-for-profit entities to become licensees prior to any auctions. Perhaps a non-profit "filing window" for vacant channels could be arranged.

8. Nonetheless, we expect that unless the Commission strongly words the prohibition against the production of programs by the licensees, and other common ownership prohibitions, including ownership of LPDS facilities by Part 73 licensees or their affiliates, that there will be a "land rush" for these channels by traditional broadcasters.

9. We believe however, that permitting LPDS use of these channels will greatly increase the Government's revenues from the forthcoming auctions thereof.

10. Section 22.323, which authorizes "incidental" uses of the instant channels, is currently very broad in its scope. It appears to permit LPDS-like services without further Commission approval. We feel however, that it is important for a rule change to be effectuated to make permanent such authority.

11. Section 22.567(h) permits stations to utilize the "mobile return channel" for base station communications, including one-way paging, or as control stations in a "repeater" mode. Since these uses are already permitted, we propose that licensees be authorized to provide either separate LPDS services on the Mobile channel, or in the alternate, use the mobile channel as part of a "Studio to Transmitter Link" (STL), negating the need for wireline service or co-location of facilities.

13. We recognize the need for Station Identification requirements, but suggest that current regulations embodied in Section 22.313 (b) and (c), are adequate in this regard. We would greatly prefer, however, that LPDS facilities be included in 22.313 (a).

IV CONCLUSION

14. It is obvious that Common Carrier licensees can provide a needed service by carriage of LPDS material, satisfying a "pent up demand" for program distribution channels and serving the public by providing a greater diversity of programming. These goals are consistent with the mandate of the Telecommunications Act of 1996 which seeks open competition in all communications services.

15. For these, and other good reasons, we request that the Commission act upon this Petition in the manner it deems appropriate.

Respectfully submitted,

FREEPAGE CORPORATION

By 
President

P.O. Box 5098
Montauk, NY 11954
516 668 6775